

**MINUTES OF THE
UTAH TAX REVIEW COMMISSION**

Thursday, May 26, 2016 – 2:00 p.m. – Room 445 State Capitol

Members Present:

Mr. Curtis Trader, Chair
Sen. Lyle W. Hillyard
Rep. Joel K. Briscoe
Rep. Steve Eliason
Rep. Daniel McCay
Mr. Phil Dean
Ms. Kathleen Howell
Mr. K. Tim Larsen
Mr. Troy K. Lewis
Comm. John L. Valentine
Mr. Lawrence C. Walters

Members Excused:

Sen. Jim Dabakis
Sen. Deidre M. Henderson
Mr. Kelly J. Applegate
Ms. Emily D. Bagley
Mr. Gregory G. Prawitt

Staff Present:

Mr. Leif G. Elder, Policy Analyst
Mr. Bryant R. Howe, Deputy Director
Ms. Andrea Valenti Arthur, Associate General Counsel
Ms. Bree Frehner, Legislative Assistant

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Commission Business

Chair Trader called the meeting to order at 2:13 p.m.

MOTION: Mr. Dean moved to approve the minutes of the April 28, 2016, meeting with an alteration. The motion passed unanimously. Rep. McCay was absent for the vote.

2. Apportionment of Business Income

Ms. Valenti Arthur distributed and discussed "Electability of a Method for Apportioning Corporate Income in the Western States." She explained the choices in the three states, Arizona, New Mexico, and Utah, that allow election.

Mr. Howe distributed and discussed the following handouts:

- "Apportionment of Business Income for Purposes of the Corporate Income Tax Flowchart"
- "Businesses in NAICS Categories Excluded from Using the Single Sales Factor Apportionment Formula"
- "Selected Business Indicators of Firms with NAICS Codes that are Mandated to Use Single Sales Factor Apportionment Formula"
- "Selected Business Indicators of Firms with NAICS Codes that are Excluded from Using the Single Sales Factor Apportionment Formula"
- "Selected Tax and Manufacturing Indicators: Top 26 Manufacturing States"
- "Examples of Legislation Authorizing a More Heavily Weighted Sales Factor Apportionment Formula"
- "2016 General Session H.B. 61, 'Corporate Franchise and Income Tax Changes,' as introduced"

Responding to questions from the commission, Mr. Howe explained the distinction between a "sales factor weighted taxpayer" and an "optional sales factor weighted taxpayer" and discussed the sizes of these groups, their returns, and their taxable income. He also noted that some taxpayers may annually elect an apportionment formula to use while "sales factor weighted" taxpayers must use a single sales factor apportionment formula. He reminded the commission of the Legislature's request for a recommendation regarding expanding the single sales factor apportionment formula to currently excluded industries.

Mr. Thomas Young, Senior Economist, Office of the Legislative Fiscal Analyst, distributed:

- "Mandatory & Optional Single Sales, Static Note," which only evaluates C-corporations; and
- "Single Sales Corporate FY2017-2018 Impact," which evaluates all corporations.

Mr. Young explained the fiscal impact shown on both handouts. Mr. Young, Commissioner Valentine, and Chair Trader discussed the complexity of apportionment for corporations that are not C-corporations and discussed different taxes that could be affected by any changes to the corporate income tax apportionment.

Mr. Young also distributed:

- "2016 General Session H.B. 61, as introduced, Dynamic Fiscal Analysis"; and
- "2016 General Session H.B. 61, 1st Substitute, Dynamic Fiscal Analysis."

Mr. Young explained the four scenarios illustrated on each dynamic fiscal analysis handout in comparison to the static fiscal impact. He explained the scenarios, all of which assume that the majority of estimated spending by individuals and corporations will occur in Utah, as follows:

- Scenario 1: Do nothing. Continuing current corporate income tax collection and then investing the collections.
- Scenario 2: Government spending. Continuing current corporate income tax collection but spending the collections on government programs.
- Scenario 3: Marginal business response. Enacting H.B. 61 (or H.B. 61, 1st Substitute) and assuming reduced private sector costs lead to marginal reinvestment.
- Scenario 4: Strong business response. Enacting H.B. 61 (or H.B. 61, 1st Substitute) and assuming reduced private sector costs lead to savings reinvestment plus additional new investment.

Mr. Young responded to questions from the commission on the four scenarios and discussed the budget impacts, particularly to education and business attraction, of each scenario with commission members.

Commission members discussed where reinvestment will occur when a tax policy change brings cost reductions, particularly whether the reinvestment will occur in Utah. Responding to questions from Chair Trader, Mr. Young explained the assumptions in each scenario about reinvestment leakage and retention.

Sen. Hillyard commented on the tradeoff between increasing funding for education and changing corporate tax policy to attract companies, noting that low education funding can deter companies from relocating to or expanding in Utah.

Responding to a question from Rep. Eliason, Mr. Young discussed the state of Utah's economy and economic indicators for the nation and for Utah.

Chair Trader thanked Mr. Young for his presentation.

Mr. Gary Cornia, Former Dean, Marriott School of Management, Brigham Young University, distributed and discussed "The Utah Economy: Coincident Index, Economic Incidence, and Economic Development." He stated that Utah is leading the West in terms of economic growth and provided comparisons of economic growth in Utah and other states. He discussed the economic incidence of a tax, highlighting that the incidence of the corporate income tax is uncertain. He also addressed the role taxes play in influencing economic location decisions and economic development in regions, states, and communities. Completing his presentation, Mr. Cornia reminded the commission that Utah has the lowest per pupil public education expenditures in the nation and stated that changes to corporate tax policy should be considered in light of how Utah would make up for lost revenue.

Mr. Walters asked, if the state corporate income tax burden on a firm was reduced, would the firm increase its wages? Mr. Cornia replied that it was possible but that economists do not have a consensus on who bears the economic burden of the corporate income tax.

Chair Trader commented that if Utah waits too long to expand the availability of single sales factor apportionment formula, then it may forfeit potential economic growth.

Sen. Hillyard asked, what would happen if Utah were the last state to allow all taxpayers to use the single sales factor formula? Mr. Cornia replied that if the ability of a taxpayer to use the single sales factor formula induces additional capital investment and hiring, then Utah would lose out on this new investment. Sen. Hillyard commented that the state corporate income tax is an unstable revenue source.

Mr. Lewis asked how quickly firms respond to changes in tax policy. Dr. Cornia said that while tax cuts are certain, responses are uneven and that there will always be a lag between a change in tax policy meant to induce certain behavior and the behavior actually changing. He also said that Utah's adoption of a single sales factor apportionment formula will only have a strong inducement effect if Utah does so before other states.

In conclusion, Mr. Cornia said that the state corporate income tax is unfair, unevenly applied, and a volatile source of revenue. He recommended eliminating it and replacing the revenue with another tax source, possibly property taxes or personal income taxes.

Chair Trader thanked Mr. Cornia for his presentation.

3. Other Items/Adjourn

Chair Trader rescheduled the June meeting to Thursday, June 30, 2016, at 2:00 p.m.

Chair Trader adjourned the meeting at 4:01 p.m.